

Raymond Planning Board Minutes

June 11, 2009

Approved 07/16/09

Place: Raymond High School; Media Center

Call to Order: 7:00 p.m.

Members Present: Jonathan Wood, Chairman; Carolyn Matthews, Vice Chairman; Jim Kent, Secretary; Bill Hoitt, Selectmen's Ex-Officio; Bill Cantwell, Gretchen Gott.

Staff Present: Ernest Cartier Creveling, Community Development Director; Robert Price, Planning Technician.

Pledge of Allegiance

Public Hearing – Granite Meadows Site Plan Extension

Application #2006-012: *A request has been received from PD Associates, LLC for a one year extension of the site plan approval, originally granted by the Raymond Planning Board on June 28, 2007, for a project known as "Granite Meadows," which involves development within the Sewer Overlay District as represented on the original site plan application submitted on June 26, 2006. On June 5, 2008, this project received a one year extension establishing an approval expiration date of June 25, 2009. The property is shown on Raymond Tax Map 22, Lot 9; Old Manchester Road and Scribner Road.*

Members Sitting for this Hearing: *Jonathan Wood, Carolyn Matthews, Jim Kent Bill Hoitt, Gretchen Gott, Bill Cantwell.*

Jonathan Wood stated staff developed a list of questions for the applicant to respond to regarding his application. He asked that the applicant work through the list with the Board and provide responses. Elmer Pease of PD Associates, LLC and his attorney, Henry Hyder, went through the list of questions with the Board.

1. *The Planning Board needs to conduct a Finding of Fact to confirm that Mr. Pease falls within the provisions of SB93.*

Jonathan Wood stated the project was originally approved June 28, 2007. The provisions of SB 93 take into account all projects approved between January 1, 2007 and July 1, 2009. This bill grants a three-year extension on achieving active and substantial development. Mr. Cartier Creveling noted the extension requested by the applicant tonight would allow one year for completion of the conditions precedent, and then from that point, the Bill's timeline of three years comes into effect.

Jonathan Wood polled the Board to determine if the Board felt this project falls within the provisions of SB-93.

POLL RESULTS

Jim Kent – Yes

Gretchen Gott – Yes
Bill Hoitt – Abstain
Bill Cantwell – Yes
Carolyn Matthews – Yes
Jonathan Wood – Yes

2. Who is the current owner of the property? Please provide evidence to the Board.

Mr. Pease explained that as of last week, he has taken title to the property from the Community Development Finance Authority. As a result of the transaction being so recent, he does not have the paperwork, nor does he have a book and page, at this time. Mr. Hyder added as soon as the paperwork is returned from the Registry of Deeds, copies will be forwarded to the Town.

3. Is the site plan currently in place the plan you are seeking an extension for?

Mr. Pease confirmed that the approved outlet mall design is the plan for which an extension is being sought.

Gretchen Gott stated the Board has seen and discussed other plans in a conceptual nature. Mr. Pease stated he presented a plan for an unnamed major retailer. That retailer hung around until December of last year, but has now put their plans on hold. He stated they did not withdraw interest, however. As a result, there is still a chance to come back and revise the plan to fit this retailer's needs, if they decide to move forward.

Mr. Pease also mentioned he is still in pursuit of the property located across the street, and is still working with Raymond Ambulance, Inc.

4. What are your prospects for development?

Mr. Pease responded at this point some things are on hold, primarily due to the economy. He stated they are speaking with retailers, but nothing is set in stone. He stated he still believes in the project, and that is why he went forward with the purchase of the property.

5. Please clarify the phasing plan against the Conditions of Approval, Item #3, which reads:

3. The following items must be completed for both phases to constitute "substantial completion of the improvements" pursuant to (RSA 674:39):

- a. Entire site drainage infrastructure shall be installed;*
- b. All foundations must be installed;*
- c. Vegetated areas shall be stabilized with permanent seeding and landscaping as indicated on the drawings;*
- d. Underground utility conduits installed;*
- e. On-site sewage collection system shall be installed, including pump station; and*
- f. Off-site roadway improvements shall be completed.*

Mr. Pease presented the phasing plan to the Board. The first phase of this plan is the commercial portion. The second phase is the residential portion. The third phase is the restaurant, and the last phase is the hotel. He stated the reason why the conditions of approval read “both phases” is because at the time of approval, things were lumped into the “residential phase (phase 2)” and the “commercial phase (phases 1, 3 & 4).” This is because the restaurant could not be built without the infrastructure of phase 1 in place. Therefore, it was made to say all infrastructure for phases 1, 3 and 4 needed to be installed at the same time. Additionally there is a variance in place that prevents the building of the residential phase ahead of the commercial phase – it has to be simultaneously built or built after the commercial. Additionally, the residential can not be built without a wastewater treatment plant.

6. *Please discuss item 7(g) within the Conditions of Approval (text below). Can you explain how this condition impacts you?*

7(g) No building permits for the commercial phase may be issued until the WWTF design is reviewed and approved by the Planning Board and the Board of Selectmen and NH DES. No certificates of occupancy for the commercial phase may be issued until such time as the WWTF is constructed and operational.

Mr. Pease stated neither the commercial nor residential together can receive a certificate of occupancy prior to the operation of the wastewater treatment facility. This was structured this way because no on site septic was designed. Therefore, it requires a wastewater treatment facility be built.

Gretchen Gott stated she recalls hearing about on-site septic at some point. Mr. Pease confirmed that idea was for the last concept plan presented to the Board in 2008. At that time, the retail developer working with Mr. Pease had discussed on-site septic.

Gretchen Gott asked if construction on the wastewater treatment facility or construction on Granite Meadows would begin first. Mr. Pease noted a timeline for construction was provided during the approval process. The construction should go hand-in-hand. Design, review, approval and construction of the wastewater facility should be approximately 24 months. Construction of Granite Meadows will take at minimum 18 months.

Mr. Pease briefly updated the Board on the status of the wastewater treatment testing currently taking place in Woodsville, NH. He stated the State is requiring them to run through at least one more winter before approving the design. He said thus far, things are looking good.

7. *Do you have an idea as to when you will come before the Board for the condominium subdivision?*

Mr. Pease replied the plan is prepared, but it will probably not be pursued until early 2010.

8. *What is the status of the following:*
a. *Driveway permits*

- b. *Alteration of Terrain Permit*
- c. *Town water connection*
- d. *Wetland Permit*
- e. *Approvals associated with upgrades being made to the Exit 4 ramps to/from Route 101*

Mr. Pease stated driveway permit applications have not been submitted, and will not be submitted until a tenant is in place.

Mr. Pease stated the Alteration of Terrain Permit is still under review, and has not yet been acquired.

Mr. Pease stated he has not yet submitted for a Town water connection.

Mr. Pease stated Mark West of West Environmental is currently working on the wetland permit. The flags located on the Town property where the pump station is located, and where the mitigation is taking place, still need to be picked up.

Mr. Pease stated the approvals for the ramp work have been acquired, but work will not commence until on-site construction begins.

Gretchen Gott asked if the Town of Raymond is owed any money at this point. Mr. Cartier Creveling replied Mr. Pease is up to date with his fees. Once he brings the plans back, then he will be required to replenish the escrow account.

9. *What is the status/timeframe for wastewater treatment in the future?*

Mr. Pease stated construction will begin concurrent to construction on-site for Granite Meadows. Final design review will occur 6 months prior to construction.

Jonathan Wood asked if there is an outfall. Mr. Cartier Creveling replied he is not privy to this information; it is a question for the Town Manager.

10. *Is everything in place for Pooled Mitigation work to occur?*

Mr. Pease replied it is not. The survey flags still need to be picked up. Then, Mr. West will be able to get a plan to the Department of Environmental Services for review.

Jonathan Wood asked Mr. Pease to elaborate on the length of extension he is seeking. Mr. Pease stated he will take as much time as can be given, but would like to extend to 2011.

Jonathan Wood polled the Board to determine if the Board would prefer a 1 year or 2 year extension.

POLL RESULTS

Gretchen Gott – 1
Jim Kent – 1
Bill Hoitt – 1
Bill Cantwell – 1
Carolyn Matthews – 1
Jonathan Wood – 1

PUBLIC COMMENT

There was no public comment.

MOTION: Bill Cantwell made a motion to extend the time period allowed for completion of conditions precedent to June 29, 2010. Jim Kent seconded. The motion passed with a unanimous vote of 6-0-0.

MOTION: Bill Cantwell made a motion to amend the conditions of approval for this project so they read as follows:

The following conditions shall apply:

1. The conditions of approval designated as conditions precedent must be fulfilled by June 28, 2010, unless otherwise specified or this approval shall become null and void. By virtue of the first extension granted on June 5, 2008, and the extension granted June 11, 2009, Article IV, Section II, Item 5 of the Town of Raymond Site Plan Review Regulations, “Abandonment of Plan,” which allows only a 60-day extension, has been waived to allow the time frames defined by the extension granted June 11, 2009. The following are conditions precedent:
 - a. Applicant must receive all required local, state and federal permitting for the project;
 - b. **FOR SITE PLAN APPROVAL:** All fees authorized to be charged to applicant pursuant to site plan review regulations including, but not limited to, application fees, costs of special studies and legal review, shall be paid by the applicant;
 - c. Deeds, easements, conservation easements, condominium documents maintenance agreements, and any other legal documentation pertinent to this development shall be reviewed and approved by Town Counsel, and where applicable, the Board of Selectmen pursuant to RSA 41:14-a; such documents include and are not limited to the Conservation Easement which relates to the Wetlands Mitigation Pool report and easements necessary to install, maintain and repair public water and sewer lines, pump stations and other infrastructure related to the wastewater treatment facility (“WWTF”).
 - d. A Performance Guarantee Agreement shall be executed between the Town of Raymond and the Applicant within 90 days of the date of conditional approval; such agreement to contain such terms and conditions that the Town deems appropriate. The Performance Guarantee Agreement shall incorporate the terms and provisions of the Guarantee

Agreement executed between Granite Meadows, LLC c/o PD Associates, LLC Real Estate Consultants and The Town of Raymond on September 15, 2006. **Failure to execute the required agreement will result in plan approval revocation.**

- e. The applicant shall address to the satisfaction of the Town's Review Engineer, and using standard engineering practice, any remaining engineering issues identified as a result of this peer review. Written concurrence, from the Town's Review Engineer and the Raymond Community Development Director, with the design corrections of any identified engineering issues shall be required prior to final plan approval.
- f. The latest version of the site plan, including revised grading and utility plans and drainage report, shall be submitted for review by the Town's Review Engineer and such plan review must address all drainage issues to the satisfaction of the Town's Review Engineer. Pursuant to the provisions of RSA 676:4(I)(i), a compliance hearing will be scheduled solely on this issue and such hearing will be held at the regularly scheduled Planning Board meeting of July 26, 2007.
- g. (i) Applicant, with the authority of the current title holder, must secure a voluntary revocation from the Planning Board pursuant to RSA 676-4:a(I)(a) of the approved subdivision as shown on a subdivision plan entitled "Subdivision Plan for land in Rockingham County, Raymond, NH known as Granite meadows located on Tax Map 5, Lot 52A" prepared for Community Development Finance Authority by Maguire Group, dated June 1998, last rev. August 17, 1998 and recorded at the Rockingham County Registry of Deeds as Plan #D-30451, or petition the Board of Selectmen under RSA 231:52 for release of the dedication of the right of way entitled " Granite Meadows Road".
 - (ii) In the event that Applicant elects not to petition the Board of Selectmen as described above, then Applicant must still obtain a voluntary revocation of the approved subdivision as described above from the Planning Board in order to effectuate the approved site plan on one lot.

Condition g (i) and/or g (ii) must be performed before subdivision approval is obtained to create a condominium form of ownership on the property.

- 2. The following items must be completed within twelve (12) months^[1] of the Planning Board, the Board of Selectmen and the NH Department of Environmental Services approval of the WWTF design to constitute "active and substantial development or building" pursuant to (RSA 674:39):
 - a. For the commercial phase, completion of sufficient site work to enable the construction of the foundation of two buildings, and the construction of such foundations.
 - b. For the residential phase, completion of sufficient site work to enable the construction of the foundation of one building and the construction of such foundation.

- c. Applicant shall designate phasing requirements on the plan to wit, retail, residential, restaurant and hotel, in that order respectively; however, retail, restaurant and hotel shall all be considered part of the “commercial” phase; and the residential units shall comprise the “residential phase” for purposes of this section.
3. The following items must be completed for both phases to constitute “substantial completion^[2] of the improvements” pursuant to (RSA 674:39):
 - a. Entire site drainage infrastructure shall be installed;
 - b. All foundations must be installed;
 - c. Vegetated areas shall be stabilized with permanent seeding and landscaping as indicated on the drawings;
 - d. Underground utility conduits installed;
 - e. On-site sewage collection system shall be installed, including pump station; and
 - f. Off-site roadway improvements shall be completed.
4. Prior to the start of any on site work, an inspection escrow, in an amount determined by the Planning Board and/or designee, shall be posted. Prior to the start of offsite work, bonding of all such work, in an amount approved by the Planning Board and/or designee, shall be posted. Prior to securing a building permit in the commercial phase and the residential phase, an estimate for bonding the remaining on-site work in the respective phase shall be provided to the Planning board and/or designee.
5. This approval is subject to the following waivers as granted by the Raymond Planning Board:
 - a. Article II, Submission Requirements. Section II & III Existing Data and Information Site Development Plan Information Granted May 31, 2007.
 - b. Article VII, Review Standards, Section VI, Parking Standards. Granted May 31, 2007.
6. The Planning Board, in accordance with Table 3 of the Impact Fee Process and Methodology adopted on January 13, 2005, assesses impact fees for the project as follows: the project consists of 192 new units consisting of Multi-family Garden Units; the school impact fee for each unit is One Thousand Four-hundred Twenty-two Dollars (\$1,422.00) and the road impact fee is Four Hundred forty-three Dollars (\$443.00); the total impact fee for each unit is One thousand Eight Hundred Sixty-five Dollars (\$1,865.00) and the total impact fee assessed for the project is Three Hundred Fifty-Eight Thousand Eighty Dollars (\$358,080.00). If impact fees are not collected for any unit prior to the adoption of any amendments to the 2005 impact fee schedule, then the

units which have not paid impact fees will be subject to the amended fee amount if they are not eligible for the four year vesting status under RSA 674:39. Additionally, once the four year period under RSA 674:39 elapses, then the amount under the amended impact fee schedule can be imposed.

7. Other Conditions Imposed by the Planning Board:

- a. Any proposed changes to this approved site plan must come back before the Planning Board for review and action. Further, any proposed changes to the approved site plan may require additional relief from the ZBA. Submission of the property to a condominium form of ownership will require subdivision approval from the Planning Board and such approval must be obtained before building permits are issued for the commercial and residential phase. Further, submission of the property, including the residential units, to a condominium form of ownership is required.
 - b. Subject to the conditions of approval imposed by the ZBA as part of their October 12, 2005 grant of a variance to allow multifamily residential in the C1 district.
 - c. No building permits for the residential units/residential phase may be issued until the WWTF design is reviewed and approved by the Planning Board and the Board of Selectmen and by New Hampshire DES, consistent with the ZBA approval. No certificates of occupancy for the residential units may be issued until such time as the WWTF is constructed and is operational.
 - d. Applicant or its successors and assigns shall issue a notice to proceed pursuant to the Guarantee Agreement and shall fully perform any and all obligations as set forth in the Guarantee Agreement of 15 September 2006 by and between Granite Meadows, LLC c/o PD Associates, LLC Real Estate consultants and the Town of Raymond on September 15, 2006.
 - e. All conditions set forth in this approval are binding on successors and assigns of Applicant.
 - f. Applicant must comply with all applicable state regulations, zoning ordinance, ZBA approvals, site review and subdivision regulations.
 - g. No building permits for the commercial phase may be issued until the WWTF design is reviewed and approved by the Planning Board and the Board of Selectmen and NH DES. No certificates of occupancy for the commercial phase may be issued until such time as the WWTF is constructed and operational.
8. Off site improvement fees for specific deficiencies found to have a rational nexus to this project are as follows: *(describe in detail and amount)*
- a. Improvements to Scribner Road as per approved plans;

- b. Installation of water mains, sizing to be determined through engineering design, with final approval by the Raymond Public Works Director;
- c. Installation of traffic light on Old Manchester Road at the entrance to Granite Meadows;
- d. Installation of conduit to service future traffic light at the intersection of Old Manchester Road, Scribner Road and Industrial Drive;
- e. Construction and striping of accessible sidewalk path along Scribner Road;
- f. Completion/construction/striping of lane configuration changes on Old Manchester Road;
- g. Completion of proposed traffic mitigation measures at the intersection of Batchelder Rd./Rt. 102/Rt. 107;
- h. Exit 4 Ramp Improvements – east and west off ramps;
- i. Wetlands Pooling mitigation activated on town-owned parcels;
- j. Installation/construction of drainage improvements on Scribner Road;
- k. Subject to a Special Permit to impact wetlands.

Note: This list does not preclude other offsite improvements which are outlined in the plans and/or engineering, traffic or other reports generated through the project approval process that are not explicitly listed within this condition.

9. Other Conditions

- a. The Applicant, at his option and after a change of use review with the Code Enforcement Officer, may upgrade from Cape Cod Berm Curbing to precast concrete poured in place concrete or granite curbing without further hearing provided there is no overall change in parking configuration, drainage, or plans presented.

SB 93 – VERSION ADOPTED BY BOTH BODIES

03/11/09 0496s

2009 SESSION

09-0970

10/05

SENATE BILL 93

AN ACT relative to the exemption from subsequent local land use regulation where substantial development has begun on an approved plan.

SPONSORS: Sen. Bragdon, Dist 11

COMMITTEE: Public and Municipal Affairs

AMENDED ANALYSIS

This bill allows for additional time to begin substantial development and building for a property subject to an approved subdivision plat or site plan to be exempt from subsequent planning board regulation.

*Explanation: Matter added to current law appears in **bold italics**.*

Matter removed from current law appears ~~[in brackets and struck through.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03/11/09 0496s

09-0970

10/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

AN ACT relative to the exemption from subsequent local land use regulation where substantial development has begun on an approved plan.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraph; Local Land Use Planning; Recorded Plans; Four Year Exemption;

Additional Exemption Added. Amend RSA 674:39 by inserting after paragraph IV the following new paragraph:

V. Notwithstanding the time limits established in paragraph I, every subdivision plat and site plan approved by the planning board on or after January 1, 2007 and prior to July 1, 2009 shall be allowed 36 months after the date of approval to achieve active and substantial development or building as described in paragraph I(a) and every subdivision plat and site plan approved by the planning board on or after July 1, 2005 and prior to July 1, 2009 shall be allowed 6 years after the date of approval to achieve substantial completion of the improvements as described in paragraph II.

2 Effective Date. This act shall take effect upon its passage.

The motion was seconded by Carolyn Matthews. The motion passed with a unanimous vote of 6-0-0.

Master Plan Work Session

Community Development Director Cartier Creveling stated staff just received the remaining chapters for Volume II, and added he has not yet had the opportunity to read through them. He briefly covered a few items he has seen at this point that need to be fixed.

The Planning Board briefly discussed the Master Plan public hearing process for adoption of the Plan. The Board agreed that the first public hearing should be held August 13 and the second public hearing should be scheduled September 10. The Board also agreed that the topic group members should be notified, as well.

Carolyn Matthews requested that a short 4-page selection from Hazard Mitigation Plan, recently updated and adopted by the Board of Selectmen, be added to the Natural Hazards chapter of the Master Plan. This section of the Hazard Mitigation Plan outlines strategies for accomplishing the goals that are currently identified in the Master Plan. The Board agreed to have this section added to the end of the Natural Hazards chapter.

Other Business – SNHPC Collaborative Grant

Community Development Director Cartier Creveling stated recently the Board of Selectmen asked the Planning Board to reaffirm their support for the Southern NH Planning Commission collaborative grant. He noted both the Planning Board and Board of Selectmen need to approve the request for it to go forward.

The Board briefly discussed the grant, and some members expressed concern with the return for the money investment, and also the ability of SNHPC to handle the magnitude of the project.

Jonathan Wood polled the Board to determine if the Town of Raymond should join with the SNHPC collaborative grant.

POLL RESULTS

Jim Kent – Yes, because other options haven't been explored

Gretchen Gott – Yes, but other options should be explored

Bill Cantwell – Yes

Jonathan Wood – Yes

Carolyn Matthews – Yes

Bill Hoitt – Abstain

Other Business – Motollo Letter

Note: Bill Cantwell recused himself from this discussion.

Community Development Director Cartier Creveling distributed a draft letter from the Planning Board to the Board of Selectmen regarding the Planning Board's recommendation for the Motollo Superfund Site. The Board briefly reviewed the letter and made a couple amendments, one of which was to clarify that the Town should not hold the conservation easement on this site.

Jonathan Wood polled the Board to determine if the Motollo recommendation letter should be signed, as amended, and given to the Board of Selectmen.

POLL RESULTS

Jim Kent – Yes

Gretchen Gott – Yes

Jonathan Wood – Yes

Carolyn Matthews – Yes

Bill Hoitt – Abstain

The Planning Board heard reports from its members serving on other Boards and Committees.

Adjournment

MOTION: Bill Cantwell made a motion to adjourn. Carolyn Matthews seconded. The motion passed with a unanimous vote of 6-0-0. The meeting adjourned at 9:35 p.m.

Respectfully Submitted,

Robert Price
Planning Technician

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[1] If SB-93 becomes law, the active and substantial development time frame in Item 2 above and the substantial completion time frame in Item 3 will be subject to the extended time frames outlined in SB-93.

A copy of the approved language is attached.

[2] If SB-93 becomes law, the active and substantial development time frame in Item 2 above and the substantial completion time frame in Item 3 will be subject to the extended time frames outlined in SB-93.

A copy of the approved language is attached.